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8 WEST COAST CHAIN MFG. CO.

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 SAN FRANCISCO TECHNOLOGY, INC.,

14 Plaintiff,

15 vs.

16 ADOBE SYSTEMS, INCORPORATED,
17 THE BRITA PRODUCTS COMPANY,
DELTA FAUCET COMPANY, EVANS
18 MANUFACTURING, INC., THE
EVERCARE COMPANY, GRAPHIC
19 PACKAGING INTERNATIONAL, INC.,
MAGNUM RESEARCH, INC.,
PAVESTONE COMPANY LP, THE
20 PROCTOR & GAMBLE COMPANY, S.C.
JOHNSON & SON, INC., SPECTRUM
21 BRANDS INC., SUPER SWIM CORP.,
UNILOCK, INC., WEST COAST CHAIN
22 MFG. CO.,

23 Defendants.

Case No. 5:09-cv-06083-RS

**DEFENDANT WEST COAST CHAIN
MFG. CO.'S ANSWER**

24
25 West Coast Chain Mfg. Co. ("West Coast Chain"), for itself alone, responds to the
26 allegations of the Complaint filed by Plaintiff San Francisco Technology, Inc. ("SFT") as
27 follows:

28 DEFENDANT WEST COAST CHAIN MFG CO. ANSWER
CASE NO. 5:09-CV-06083-RS

Nature of Action

1
2 1. West Coast Chain admits that this is a *qui tam* action to impose civil fines for
3 alleged false marking and that 35 U.S.C. § 292 speaks for itself. West Coast Chain specifically
4 denies that it has committed acts of false marking with intent to deceive the public. West Coast
5 Chain lacks knowledge or information sufficient to form a belief as to the truth of the
6 remaining allegations contained in Paragraph 1 of the Complaint.

Parties

7
8 2. West Coast Chain lacks knowledge or information sufficient to form a belief as
9 to the truth of the allegations contained in Paragraph 2 of the Complaint.

10 3. West Coast Chain lacks knowledge or information sufficient to form a belief as
11 to the truth of the allegations contained in Paragraph 3 of the Complaint.

12 4. West Coast Chain lacks knowledge or information sufficient to form a belief as
13 to the truth of the allegations contained in Paragraph 4 of the Complaint.

14 5. West Coast Chain lacks knowledge or information sufficient to form a belief as
15 to the truth of the allegations contained in Paragraph 5 of the Complaint.

16 6. West Coast Chain lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 6 of the Complaint.

18 7. West Coast Chain lacks knowledge or information sufficient to form a belief as
19 to the truth of the allegations contained in Paragraph 7 of the Complaint.

20 8. West Coast Chain lacks knowledge or information sufficient to form a belief as
21 to the truth of the allegations contained in Paragraph 8 of the Complaint.

22 9. West Coast Chain lacks knowledge or information sufficient to form a belief as
23 to the truth of the allegations contained in Paragraph 9 of the Complaint.

24 10. West Coast Chain lacks knowledge or information sufficient to form a belief as
25 to the truth of the allegations contained in Paragraph 10 of the Complaint.

26 11. West Coast Chain lacks knowledge or information sufficient to form a belief as
27 to the truth of the allegations contained in Paragraph 11 of the Complaint.

12. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint.

15. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint.

16. West Coast Chain admits the allegations contained in Paragraph 16 of the Complaint.

Jurisdiction & Venue

17. West Coast Chain denies the allegations contained in Paragraph 17 of the Complaint.

18. West Coast Chain denies the allegations contained in Paragraph 18 of the Complaint. Regardless of whether venue is proper, venue should be transferred to the Central District of California for the convenience of the parties and the witnesses.

19. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint.

20. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint.

21. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint.

22. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Complaint.

23. West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint.

24. West Coast Chain lacks knowledge or information sufficient to form a belief as

1 to the truth of the allegations contained in Paragraph 24 of the Complaint.

2 25. West Coast Chain lacks knowledge or information sufficient to form a belief as
3 to the truth of the allegations contained in Paragraph 25 of the Complaint.

4 26. West Coast Chain lacks knowledge or information sufficient to form a belief as
5 to the truth of the allegations contained in Paragraph 26 of the Complaint.

6 27. West Coast Chain lacks knowledge or information sufficient to form a belief as
7 to the truth of the allegations contained in Paragraph 27 of the Complaint.

8 28. West Coast Chain lacks knowledge or information sufficient to form a belief as
9 to the truth of the allegations contained in Paragraph 28 of the Complaint.

10 29. West Coast Chain lacks knowledge or information sufficient to form a belief as
11 to the truth of the allegations contained in Paragraph 29 of the Complaint.

12 30. West Coast Chain lacks knowledge or information sufficient to form a belief as
13 to the truth of the allegations contained in Paragraph 30 of the Complaint.

14 31. West Coast Chain lacks knowledge or information sufficient to form a belief as
15 to the truth of the allegations contained in Paragraph 31 of the Complaint.

16 32. West Coast Chain lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 32 of the Complaint.

18 33. West Coast Chain admits that it is a California corporation with its principal
19 place of business in Ontario, California. West Coast Chain denies that it has sold falsely
20 marked products within the meaning of 35 U.S.C. § 292 within this district or in the stream of
21 commerce with knowledge that they would be sold in California and in this district. West
22 Coast Chain also denies that venue properly lies in this judicial district with respect to West
23 Coast Chain.

24 **Intradistrict Assignment**

25 34. West Coast Chain admits that the claims arise under 35 U.S.C. § 292 and do not
26 appear to concern infringement or validity of any patent. West Coast Chain denies that
27 assignment to the San Jose Division is appropriate and that a substantial portion of the events

1 underlying the case occurred in Santa Clara County. West Coast Chain lacks knowledge or
2 information sufficient to form a belief as to the truth of the allegations contained in Paragraph
3 34 of the Complaint.

4
5 **Count 1: Adobe's False Marking**

6 35. West Coast Chain restates its responses to Paragraphs 1-34 of the Complaint as
7 if fully stated here.

8 36-49. Paragraphs 36-49 of the Complaint are not directed at West Coast Chain. As a
9 result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the
10 truth of the allegations contained in Paragraphs 36-49 of the Complaint.

11 **Count 2: Brita's False Marking**

12 50. West Coast Chain restates its responses to Paragraphs 1-49 of the Complaint as
13 if fully stated here.

14 51-54. Paragraphs 51-54 of the Complaint are not directed at West Coast Chain. As a
15 result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the
16 truth of the allegations contained in Paragraphs 51-54 of the Complaint.

17 **Count 3: Delta's False Marking**

18 55. West Coast Chain restates its responses to Paragraphs 1-54 of the Complaint as
19 if fully stated here.

20 56-60. Paragraphs 56-60 of the Complaint are not directed at West Coast Chain. As a
21 result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the
22 truth of the allegations contained in Paragraphs 56-60 of the Complaint.

23 **Count 4: Evans' False Marking**

24 61. West Coast Chain restates its responses to Paragraphs 1-60 of the Complaint as
25 if fully stated here.

26 62-68. Paragraphs 62-68 of the Complaint are not directed at West Coast Chain. As a
27 result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the

truth of the allegations contained in Paragraphs 62-68 of the Complaint.

Count 5: Evercare's False Marking

69. West Coast Chain restates its responses to Paragraphs 1-68 of the Complaint as if fully stated here.

70-72. Paragraphs 70-72 of the Complaint are not directed at West Coast Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 70-72 of the Complaint.

Count 6: Graphic Packaging's False Marking

73. West Coast Chain restates its responses to Paragraphs 1-72 of the Complaint as if fully stated here.

74-77. Paragraphs 74-77 of the Complaint are not directed at West Coast Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 74-77 of the Complaint.

Count 7: Magnum's False Marking

78. West Coast Chain restates its responses to Paragraphs 1-77 of the Complaint as if fully stated here.

79-82. Paragraphs 79-82 of the Complaint are not directed at West Coast Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 79-82 of the Complaint.

Count 8: Pavestone's False Marking

83. West Coast Chain restates its responses to Paragraphs 1-82 of the Complaint as if fully stated here.

84-88. Paragraphs 84-88 of the Complaint are not directed at West Coast Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 84-88 of the Complaint.

Count 9: Proctor & Gamble's False Marking

89. West Coast Chain restates its responses to Paragraphs 1-88 of the Complaint as

1 if fully stated here.

2 90-99. Paragraphs 90-99 of the Complaint are not directed at West Coast Chain. As a
3 result, West Coast Chain lacks knowledge or information sufficient to form a belief as to the
4 truth of the allegations contained in Paragraphs 90-99 of the Complaint.

5 **Count 10: SC Johnson's False Marking**

6 100. West Coast Chain restates its responses to Paragraphs 1-99 of the Complaint as
7 if fully stated here.

8 101-105. Paragraphs 101-105 of the Complaint are not directed at West Coast
9 Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a
10 belief as to the truth of the allegations contained in Paragraphs 101-105 of the Complaint.

11 **Count 11: Spectrum's False Marking**

12 106. West Coast Chain restates its responses to Paragraphs 1-105 of the Complaint as
13 if fully stated here.

14 107-111. Paragraphs 107-111 of the Complaint are not directed at West Coast
15 Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a
16 belief as to the truth of the allegations contained in Paragraphs 107-111 of the Complaint.

17 **Count 12: Super Swim's False Marking**

18 112. West Coast Chain restates its responses to Paragraphs 1-111 of the Complaint as
19 if fully stated here.

20 113-116. Paragraphs 113-116 of the Complaint are not directed at West Coast
21 Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a
22 belief as to the truth of the allegations contained in Paragraphs 113-116 of the Complaint.

23 **Count 13: Unilock's False Marking**

24 117. West Coast Chain restates its responses to Paragraphs 1-116 of the Complaint as
25 if fully stated here.

26 118-122. Paragraphs 118-122 of the Complaint are not directed at West Coast
27 Chain. As a result, West Coast Chain lacks knowledge or information sufficient to form a

1 belief as to the truth of the allegations contained in Paragraphs 118-122 of the Complaint.

2 **Count 14: West Coast Chain's False Marking**

3 123. West Coast Chain restates its responses to Paragraphs 1-122 of the Complaint as
4 if fully stated here.

5 124. West Coast Chain admits the allegations contained in Paragraph 124 of the
6 Complaint.

7 125. West Coast Chain admits that it sells key chain and retractor products and that it
8 maintains a website accessible at www.keybank.com. West Coast Chain admits that several of
9 its products are named and depicted on its website. West Coast Chain denies the remaining
10 allegations contained in Paragraph 125 of the Complaint.

11 126. West Coast Chain admits the allegations contained in Paragraph 126 of the
12 Complaint.

13 127. West Coast Chain denies the allegations contained in Paragraph 127 of the
14 Complaint.

15 128. West Coast Chain admits that its website accessible at www.keybak.com
16 contains the phrase "Copyright © 2008 - KEY-BAK®, Division of WEST COAST CHAIN
17 MFG. CO." West Coast Chain denies the remaining allegations contained in Paragraph 128 of
18 the Complaint.

19 129. West Coast Chain denies the allegations contained in Paragraph 129 of the
20 Complaint.

21 **AFFIRMATIVE DEFENSES**

22 **FIRST AFFIRMATIVE DEFENSE**

23 **(Failure to State a Claim)**

24 1. SFT has failed to state a claim upon which relief can be granted.

25 **SECOND AFFIRMATIVE DEFENSE**

26 **(Lack of Standing)**

27 2. SFT lacks standing to prosecute this action. SFT has suffered no injury, and

1 SFT has failed to plead any injury to the United States sufficient to confer standing.

2 **THIRD AFFIRMATIVE DEFENSE**

3 **(Failure to Plead With Particularity)**

4 3. SFT has failed to plead its claims for false patent marking with sufficient
5 particularity.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 **(Misjoinder of Parties)**

8 4. SFT's alleged right to relief against each of the Defendants does not arise from
9 the same transaction, occurrence, or series of transactions or occurrences, and the questions of
10 law and fact that will arise in the action are not common to all Defendants. As a result, there is
11 misjoinder of parties, and the Court should either drop West Coast Chain from this action or
12 sever SFT's claim against West Coast Chain from this action.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 **(Statute of Limitations)**

15 5. Some or all of SFT's claims are barred by the statute of limitations.

16 **SIXTH AFFIRMATIVE DEFENSE**

17 **(Laches)**

18 6. SFT's claims are barred by the doctrine of laches.

19 **SEVENTH AFFIRMATIVE DEFENSE**

20 **(Waiver)**

21 7. SFT's claims are barred by the doctrine of waiver.

22
23 THEREFORE, West Coast Chain requests judgment as follows:

24 1. That SFT take nothing by its Complaint;

25 2. That the Court determine and declare that West Coast Chain has not committed
26 acts of false patent marking in violation of 35 U.S.C. § 292;

27 3. That the Court award West Coast Chain its costs of suit;

1 4. That the Court award West Coast Chain its attorneys' fees and litigation
2 expenses pursuant to 35 U.S.C. § 285 or on any other applicable basis; and

3 5. That the Court grant such other relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Defendant West Coast Chain Mfg. Co. hereby demands a trial by jury to decide all
6 issues so triable in this case.

7
8 DATED: March 1, 2010

Respectfully submitted,

9 CHRISTIE, PARKER & HALE, LLP

10
11 By /s/ Steven E. Lauridsen

12 Richard A. Wallen

Brian K. Brookey

13 Steven E. Lauridsen

14 Attorneys for Defendant,
West Coast Chain Mfg. Co.

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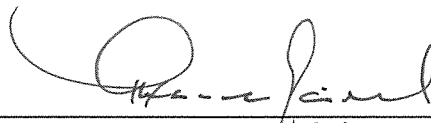
CERTIFICATE OF SERVICE

I certify that on February 26, 2010, pursuant to Federal Rules of Civil Procedure, a true and correct copy of the foregoing document described as **DEFENDANT WEST COAST CHAIN MFG. CO.'S ANSWER** was served on the parties in this action by **E-MAIL** addressed as follows:

SEE ATTACHED SERVICE LIST

I declare that I am employed by a member of the bar of this Court, at whose direction this service was made.

Executed on February 26, 2010 at Pasadena, California.



Roxanne Gaines

San Francisco Technology v. Adobe Systems, Inc., et al.
Case No. 5:09-cv-06083

Service List

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| | |